

**As Reported by the House Agriculture and Natural Resources
Committee**

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H. B. No. 217

Representative Reinhard

**Cosponsors: Representatives Adams, Aslanides, Evans, Fessler, Latta,
McGregor, J., Schlichter, Seitz, Setzer, Stebelton, Webster, Zehringer, Core,
Goodwin, Huffman, Hite, Luckie, Domenick**

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A B I L L

To amend sections 924.01, 924.02, 924.08, 924.09, and 1
924.99 and to enact sections 924.20 to 924.30 of 2
the Revised Code to establish a grain marketing 3
program. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 924.01, 924.02, 924.08, 924.09, and 5
924.99 be amended and sections 924.20, 924.21, 924.22, 924.23, 6
924.24, 924.25, 924.26, 924.27, 924.28, 924.29, and 924.30 of the 7
Revised Code be enacted to read as follows: 8

Sec. 924.01. As used in ~~Chapter 924.~~ sections 924.01 to 9
924.16 and 924.51 to 924.55 of the Revised Code: 10

(A) "Agricultural commodity" means any food, fiber, feed, 11
animal, or plant, or group of foods, fibers, feeds, animals, or 12
plants that the director of agriculture determines to be of the 13
same nature, in either a natural or a processed state. 14

"Agricultural commodity" does not include grain as defined in 15
section 924.20 of the Revised Code. 16

(B) "Distributor" means any person who sells, offers for sale, markets, or distributes an agricultural commodity ~~which he~~ that the person has purchased or acquired directly from a producer, or ~~which he~~ that the person markets on behalf of a producer.

(C) "Handler" means any person who is in the business of packing, grading, selling, offering for sale, or marketing any agricultural commodity in commercial quantities as defined in a marketing program.

(D) "Marketing program" means a program ~~which~~ that is established by order of the director ~~of agriculture~~ pursuant to this chapter, to improve or expand the market for an agricultural commodity.

(E) "Operating committee" means a committee established to administer a marketing program for an agricultural commodity.

(F) "Person" means any natural person, partnership, corporation, society, association, or fiduciary.

(G) "Processor" means any person who is in the business of grading, packaging, packing, canning, freezing, dehydrating, fermenting, distilling, extracting, preserving, grinding, crushing, juicing, or in any other way preserving or changing the form of any agricultural commodity.

(H) "Producer" means any person who is in the business of producing, or causing to be produced, any agricultural commodity for commercial sale, except that when used in reference to nursery stock, "producer" also means a distributor, processor, handler, or retailer of nursery stock.

Sec. 924.02. The director of agriculture, subject to ~~this~~ chapter sections 924.01 to 924.16 and Chapter 119. of the Revised Code, shall do all of the following:

(A) Establish procedures by which producers of Ohio agricultural commodities may propose, develop, and operate marketing programs to:	47 48 49
(1) Promote the sale and use of their products;	50
(2) Develop new uses and markets for such products;	51
(3) Improve the methods of distributing such products to consumers;	52 53
(4) Standardize the quality of such products for specific uses.	54 55
(B) Adopt and enforce rules to put into effect the intent of sections 924.01 to 924.16 of the Revised Code;	56 57
(C) Determine the eligibility of producers to participate in referendums and other procedures that may be required to establish marketing programs for agricultural commodities.	58 59 60
Sec. 924.08. The director of agriculture shall monitor the actions of each operating committee to assure that:	61 62
(A) Each marketing program is self-supporting + .	63
(B) Each such committee keeps all records which <u>that</u> are required for agencies of the state + .	64 65
(C) All program operations are in accord with:	66
(1) The provisions of the marketing program;	67
(2) Regulations <u>Rules</u> adopted by the director;	68
(3) Chapter 924. <u>Sections 924.01 to 924.16</u> of the Revised Code.	69 70
(D) Administrative activities of each committee are coordinated with those of the department <u>of agriculture</u> .	71 72
Sec. 924.09. (A) Each operating committee may make	73

assessments upon the marketable agricultural commodity for which 74
the marketing program was established. 75

(B) No operating committee shall levy any assessment: 76

(1) That was not approved by the producers affected by the 77
program; 78

(2) That exceeds two cents per bushel of corn, or soybeans, 79
~~or wheat,~~ or two per cent of the average market price of any other 80
agricultural commodity during the preceding marketing year as 81
defined for the commodity by the United States department of 82
agriculture or, if there is no such definition, by the director of 83
agriculture; 84

(3) Against any producer who is not eligible to vote in a 85
referendum for the marketing program that the operating committee 86
administers. 87

(C) The director ~~of agriculture~~ may require a producer, 88
processor, distributor, or handler of an agricultural commodity 89
for which a marketing program has been established under sections 90
924.01 to 924.16 of the Revised Code to withhold assessments from 91
any amounts that the producer, processor, distributor, or handler 92
owes to producers of the commodity and, notwithstanding division 93
(B)(3) of this section, to remit them to the director. Any 94
processor, distributor, or handler who pays for any producer any 95
assessment that is levied under authority of this section may 96
deduct the amount of the assessment from any moneys that the 97
processor, distributor, or handler owes to the producer. 98

(D) No operating committee shall use any assessments that it 99
levies for any political or legislative purpose, or for 100
preferential treatment of one person to the detriment of any other 101
person affected by the marketing program. 102

(E) The operating committee of each marketing program shall 103
refund to a producer the assessments that it collects from the 104

producer not later than sixty days after receipt of a valid 105
application by the producer for a refund, provided that the 106
producer complies with the procedures for a refund that were 107
included in the program under division (B)(3) of section 924.04 of 108
the Revised Code. 109

In the case of the state beef marketing program, in lieu of 110
giving a refund to a producer, the director of the program's 111
operating committee may forward the refund to the cattlemen's beef 112
promotion and research board pursuant to the "Beef Promotion and 113
Research Act," 99 Stat. 1597 (1985), 7 U.S.C.A. 2901, and 114
amendments thereto, and shall credit that amount to the total 115
amount owed by the producer to the federal beef program. Each 116
application for a refund of assessments levied for a program 117
established after April 10, 1985 shall be made on a form provided 118
by the director of agriculture. Each operating committee for such 119
a program shall ensure that refund forms are available where 120
assessments for its program are withheld. 121

Sec. 924.20. As used in sections 924.20 to 924.30 of the 122
Revised Code: 123

(A) "Grain" means wheat, barley, rye, or oats. 124

(B) "Handler" means a person who is in the business of 125
agricultural commodity handling, as defined in section 926.01 of 126
the Revised Code, of grain. 127

(C) "Producer" means a person who is in the business of 128
producing, or causing to be produced, grain for commercial sale. 129

(D) "Rule" means a rule adopted under section 924.25 of the 130
Revised Code. 131

Sec. 924.21. There is hereby established a grain marketing 132
program. The program shall be administered in accordance with 133
sections 924.20 to 924.30 of the Revised Code and rules. 134

Sec. 924.22. (A) For the purposes of sections 924.20 to 135
924.30 of the Revised Code, the director of agriculture shall hold 136
an election to determine the membership of a grain marketing 137
program operating committee in accordance with rules. The election 138
shall be for nine members of the operating committee. 139

(B) Not later than one hundred twenty days after the 140
effective date of this section, the director shall accept the 141
names of persons as nominees to serve on the operating committee. 142
In accepting nominations and placing names on the ballot, the 143
director shall follow the procedures established in rules. 144

(C) Not later than one hundred eighty days after the 145
effective date of this section, the director shall hold an 146
election to determine the membership of the operating committee. 147
In the election, eligible producers may cast votes in person at or 148
mail ballots to polling places designated by the director. The 149
director shall establish a three-day period during which eligible 150
producers may vote in person during normal business hours at the 151
designated polling places. The director or another appropriate 152
person shall send a ballot by ordinary first-class mail to an 153
eligible producer who requests one by calling the toll-free 154
telephone number or submitting the ballot request form provided 155
for in division (D) of this section, by calling one of the 156
designated polling places, or by any additional method that the 157
director may provide. A ballot returned by mail is not valid if it 158
is postmarked later than the third day of the election period 159
established by the director. 160

(D) For the purposes of an election of members of the grain 161
marketing program operating committee, the director shall cause a 162
ballot request form to be published at least thirty days before 163
the beginning of the election period established in accordance 164
with division (C) of this section in at least two appropriate 165

periodicals designated by the director and shall make the form 166
available for reproduction to any interested group or association. 167
The director also shall provide a toll-free telephone number that 168
producers may call to request a ballot. 169

(E) Following the election of the initial members of the 170
operating committee, the director shall hold subsequent elections 171
in order to maintain the membership of the operating committee as 172
provided in rules. The elections shall be held in the manner 173
established in this section and rules for the election of initial 174
members. 175

(F) Persons elected to the grain marketing program operating 176
committee shall hold office in accordance with rules. 177

Sec. 924.23. (A) The grain marketing program operating 178
committee shall hold at least one meeting per quarter each year. 179
The members of the operating committee annually shall select 180
officers, including a chairperson and a vice-chairperson. 181

(B) A majority of the members of the operating committee 182
constitutes a quorum. A majority of concurring votes is required 183
to pass a motion or approve any operating committee action. 184

(C) The director of agriculture, or the director's designee, 185
is an ex-officio voting member of the operating committee. 186

(D) Each member of the operating committee, except the 187
director or the director's designee, is entitled to actual and 188
necessary travel and incidental expenses while attending meetings 189
of the committee or while engaged in the performance of official 190
responsibilities as a member of the committee. 191

(E) A member or employee of the operating committee is not 192
civilly liable for any actions taken in good faith as a member or 193
employee, as applicable, of the committee. 194

<u>Sec. 924.24. (A) The grain marketing program operating</u>	195
<u>committee shall do all of the following:</u>	196
<u>(1) Hire personnel and contract for services that are</u>	197
<u>necessary for the operation of the grain marketing program;</u>	198
<u>(2) Promote the sale of grain for the purpose of maintaining</u>	199
<u>and expanding present markets and creating new and larger</u>	200
<u>intrastate, interstate, and foreign markets for grain, and inform</u>	201
<u>the public of the uses and benefits of grain;</u>	202
<u>(3) Establish requirements and procedures for the collection</u>	203
<u>of assessments that the operating committee is required to levy</u>	204
<u>under section 924.26 of the Revised Code, including the method and</u>	205
<u>frequency of collection;</u>	206
<u>(4) Establish procedures to be used by a person who wishes to</u>	207
<u>file for a refund of the person's assessment that is levied under</u>	208
<u>section 924.26 of the Revised Code;</u>	209
<u>(5) Perform all acts and exercise all powers incidental to,</u>	210
<u>in connection with, or considered reasonably necessary, proper, or</u>	211
<u>advisable to effectuate the purposes of sections 924.20 to 924.30</u>	212
<u>of the Revised Code.</u>	213
<u>(B) The operating committee may do any or all of the</u>	214
<u>following:</u>	215
<u>(1) Conduct, and contract with others to conduct, research,</u>	216
<u>including the study, analysis, dissemination, and accumulation of</u>	217
<u>information obtained from the research or elsewhere, concerning</u>	218
<u>the marketing and distribution of grain, the storage, processing,</u>	219
<u>and transportation of grain, and the production and product</u>	220
<u>development of grain;</u>	221
<u>(2) Provide the wholesale and retail grain trade with</u>	222
<u>information relative to proper methods of handling and selling</u>	223
<u>grain;</u>	224

(3) Conduct, and contract with others to conduct, market surveys and analyses, undertake any other similar activities that it determines are appropriate for the maintenance and expansion of present markets and the creation of new and larger markets for grain, and enter into contracts, in the name of the committee, to render service in formulating and conducting plans and programs and other contracts or agreements that the committee considers necessary for the promotion of the sale of grain; 225
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(4) Publish and distribute to producers and others information relating to the grain industry; 233
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(5) Propose to the director of agriculture rules that are necessary for the exercise of its powers and the performance of its duties; 235
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(6) Establish priorities and prepare and approve a budget consistent with estimated resources and the scope of the grain marketing program; 238
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(7) Receive and investigate, or cause to be investigated, complaints concerning and violations of the grain marketing program. The operating committee shall refer any violations to the director for action under section 924.29 of the Revised Code. 241
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Sec. 924.25. (A) The director of agriculture shall monitor the activities of the grain marketing program operating committee to ensure all of the following: 245
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(1) The grain marketing program is self-supporting. 248

(2) The operating committee keeps all records that are required for agencies of the state. 249
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(3) The program's operations comply with all of the following: 251
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(a) The provisions of the program; 253

<u>(b) Rules;</u>	254
<u>(c) Sections 924.20 to 924.30 of the Revised Code.</u>	255
<u>(4) Administrative activities of the committee are coordinated with those of the department of agriculture.</u>	256 257
<u>(B) Not later than ninety days after the effective date of this section, the director shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to carry out the purposes of sections 924.20 to 924.30 of the Revised Code. The rules shall include all of the following:</u>	258 259 260 261 262
<u>(1) Deadlines and nomination procedures for the placement of persons on the ballot for election to the grain marketing program operating committee;</u>	263 264 265
<u>(2) The terms of office of members of the operating committee, including the staggering of terms for the initial members;</u>	266 267 268
<u>(3) Insofar as possible, requirements providing for the equitable distribution of members on the operating committee by geographic and production areas of the state.</u>	269 270 271
<u>Sec. 924.26.</u> <u>(A) The grain marketing program operating committee shall levy on producers and, as provided in division (B) of this section, handlers the following assessments, as applicable:</u>	272 273 274 275
<u>(1) One-half of one per cent of the per-bushel price of wheat at the first point of sale;</u>	276 277
<u>(2) One-half of one per cent of the per-bushel price of barley at the first point of sale;</u>	278 279
<u>(3) One-half of one per cent of the per-bushel price of rye at the first point of sale;</u>	280 281
<u>(4) One-half of one per cent of the per-bushel price of oats</u>	282

at the first point of sale. 283

(B) The director may require a handler to withhold 284
assessments from any amounts that the handler owes to producers 285
and to remit them to the director. A handler who pays for a 286
producer an assessment that is levied under this section may 287
deduct the amount of the assessment from any money that the 288
handler owes to the producer. 289

(C) The operating committee shall deposit all money collected 290
under this section with a bank or savings and loan association as 291
defined in sections 1101.01 and 1151.01 of the Revised Code. All 292
money so collected and deposited shall be used only for defraying 293
the costs of administration of the marketing program and for 294
carrying out sections 924.20 to 924.30 of the Revised Code. The 295
operating committee shall not use any assessments that it levies 296
for any political or legislative purpose or for preferential 297
treatment of one person to the detriment of any other person 298
affected by the grain marketing program. 299

(D) The operating committee shall refund to a producer the 300
assessments that it collects from the producer not later than 301
thirty days after receipt of a valid application by the producer 302
for a refund, provided that the producer complies with the 303
procedures for a refund established by the committee under section 304
924.24 of the Revised Code. 305

An application for a refund shall be made on a form provided 306
by the director. The operating committee shall ensure that refund 307
forms are available where assessments for the grain marketing 308
program are collected. 309

Sec. 924.27. (A) The grain marketing program operating 310
committee shall establish a fiscal year for the grain marketing 311
program. Within sixty days of the end of each fiscal year, the 312
operating committee shall publish an activity and financial report 313

and make the report available to each producer who pays the 314
assessment levied under section 924.26 of the Revised Code or 315
otherwise contributes to the program and to other interested 316
persons. 317

(B) In addition to the reports required by division (A) of 318
this section, the operating committee shall submit to the director 319
of agriculture both of the following: 320

(1) An annual financial statement prepared by a certified 321
public accountant holding a permit issued by the accountancy board 322
under Chapter 4701. of the Revised Code. The operating committee 323
shall file the financial statement with the director not more than 324
sixty days after the end of each fiscal year. 325

(2) A monthly unaudited financial statement. 326

Sec. 924.28. The grain marketing program may be suspended or 327
terminated in the same manner in which other marketing programs 328
are suspended or terminated under sections 924.12 and 924.13 of 329
the Revised Code. 330

Sec. 924.29. The director of agriculture may institute an 331
action at law or in equity that appears necessary to enforce 332
compliance with sections 924.20 to 924.30 of the Revised Code, 333
rules, or the grain marketing program that is established in 334
compliance with those sections and rules. 335

Sec. 924.30. (A) No person shall knowingly fail or refuse to 336
withhold or remit an assessment levied under section 924.26 of the 337
Revised Code. 338

(B) Before instituting an enforcement action for a violation 339
of this section, the director of agriculture shall give the 340
alleged violator an opportunity to present the alleged violator's 341
views to the director as to why the action should not be 342

instituted. 343

Sec. 924.99. Whoever violates division (A) of section 924.16 344
or of section 924.30 of the Revised Code is guilty of a 345
misdemeanor of the fourth degree. 346

Section 2. That existing sections 924.01, 924.02, 924.08, 347
924.09, and 924.99 of the Revised Code are hereby repealed. 348